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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/815,782      01/02/92      HARDAWAY

A PA-5839-0-AW

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2000 M-63  
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**EXAMINER**

CHAUDHRY, S

ART UNIT

PAPER NUMBER

1109

DATE MAILED:

10/07/92

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☐ This application has been examined ☒ Responsive to communication filed on 8-17-92 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire Three (3) month(s), \_\_\_\_\_ day(s) from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐

## Part II SUMMARY OF ACTION

1. ☒ Claims 1, 4-6 and 14-38 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1, 4-6 and 14-38 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other \_\_\_\_\_

### EXAMINER'S ACTION

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Applicant's amendments and remarks filed August 17, 1992 have been acknowledged by the examiner and entered.

Claims 2, 3, and 7-13 have been cancelled. Claims 1, 4-6 and 14-38 are pending for consideration.

Rejection of claims 1 and 5 under USC 102 (b) has been withdrawn by the examiner.

Claims 1, 4-6 and 14-38 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-5, 7-10 and 12-15 of copending application Serial No. 07/815,784. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to rinse fabric at a speed to effect move than or less than a one gravity centrifugal force on the fabric..

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

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The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 4-6 and 14-38 are rejected under 35 U.S.C. § 103 as being unpatentable over Hoffman et al. in view of Brenner et al. and Syles.

The rejections are maintained for the reasons set forth in the office action dated April 16, 1992, paper # 3.

Applicant argued that none of the cited reference suggests spraying the water onto the fabric during the rinse cycle.

This argument is not persuasive because claims 1 and 6 are not limited to "spraying the water onto the fabric during the rinse cycle". Also Brenner discloses that "the rinse steps may be spray rinses" (see col. 7, lines 26-28). Therefore, it would have

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been obvious for one of ordinary skill in the art to spray water onto fabric in a horizontal axes washer since no unexpected results are shown.

Applicant's arguments filed August 17, 1992 have been fully considered but they are not deemed to be persuasive.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed Chaudhry whose telephone number is (703) 308-3319.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

*Chaudhry 10/6*  
S. Chaudhry:rg  
October 06, 1992

*T. Morris*  
Theodore Morris  
Supervisory Patent Examiner  
Patent Examining Group 110